IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 11817 of 2004

Between:

B.Durga Rao, s/o B.Narsaiah,
r/o 3-5-131/26/B, Jammigadda, Suryapet, Nalgonda District.

..... PETITIONER

AND

1 The Chairman and Managing Director, APSRTC, Musheerabad, Hyderabad.
2 The Regional Manager, APSRTC, Khammam Region, Khammam District.
3 The Depot Manager, APSRTC, Sattupally Depot, Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of writ of mandamus declaring action of the respondents in not promoting the petitioner to the post of Depot Clerk or TI-III along with his juniors in pursuance of the Proceedings dt.9-5-2002 and consequently direct the respondents to promote the petitioner to the post of Depot Clerk or TI-III along with his juniors who were promoted in pursuance of the proceedings dt.9-5-2002 passed by the 2nd respondent by treating his services as continuous as per the award of the Hon'ble Labour Court in I.D.No.75/89.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondent Nos.1 to 3: Smt. G.JYOTHIKIRAN.

The Court made the following:

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ORDER:

The petitioner worked as a Conductor in the respondent Corporation. Later he was promoted to the post of Assistant Depot Clerk. Subsequently, he was suspended from service on the charge of misconduct, and after an enquiry, he was removed from service through the proceedings dated 09.06.1988 of the 3rd respondent.

2. Aggrieved by the order of removal from service, the petitioner preferred an appeal, and it was rejected. Later, he filed I.D.No.75 of 1989 before the Industrial Tribunal, Warangal, and the Industrial Tribunal passed an award on 26.06.1990, directing the respondents to reinstate the petitioner into service with continuity of service and 50% back wages, treating the entire period of his suspension as on duty with effect from 19.01.1988.

3. The 3rd respondent, being aggrieved by the order of the Industrial Tribunal, filed W.P.No.7312 of 1992 and it was dismissed by this Court on 06.09.1999 by confirming the award of the Industrial Tribunal.

4. The petitioner further submitted that in view of the award of the Industrial Tribunal, his seniority has to be fixed at the original place as if he is being continued in service without any termination. The seniority of the petitioner should be placed above Mr.P.S.Reddy and A.B.Chary, who were juniors to him. In April, 2002, when vacancies arose for the post of Controller, the petitioner was under the impression that he would get promotion to the post of Depot Clerk or TI Grade-III, but the respondents, instead of promoting the petitioner, promoted his juniors, without calling for any objections from the petitioner regarding the seniority. The 2nd respondent issued proceedings on 09.05.2002 promoting his juniors to the post of Depot Clerk or TI-III.

5. The petitioner contends that he possessed requisite qualifications for

promotion, but the respondents are not considering his candidature for promotion. The petitioner further contends that he submitted a representation on 15.05.2002 to the respondents for considering his request for promotion, but the respondents so far did not take any action on the said representation. He, therefore, approached this Court, seeking a direction to the respondents to consider his candidature for promotion by treating that he is continuing in service from the beginning.

6. In the light of the circumstances explained by the petitioner, the respondents are directed to consider the representation of the petitioner dated 15.05.2002, if available, otherwise, the petitioner shall make a fresh representation to the respondents, and on receipt of said representation, the respondents shall consider the eligibility and the desirability for promoting the petitioner, either to the post of Depot Clerk or TI Grade-III, in the event of availability of any vacancy, and pass appropriate orders according to Rules.

7. The Writ Petition is, accordingly, disposed of. No order as to costs.

dsr/svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To:

1. The Chairman and Managing Director,

APSRTC, Musheerabad, Hyderabad

2. The Regional Manager, APSRTC,

Khammam Region, Khammam District

3. The Depot Manager, APSRTC,

Sattupally Depot, Khammam District

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